

EXHIBIT 1



ROPES & GRAY LLP
ONE METRO CENTER
700 12TH STREET, NW, SUITE 900
WASHINGTON, DC 20005-3948
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May 11, 2011

FREEDOM OF INFORMATION APPEAL

Director, Office of Information Policy
U.S. Department of Justice
1425 New York Ave., NW, Suite 11050
Washington, D.C. 20530-0001

RE: FOIPA Request No. 1163053-000

Dear Director:

By fax dated March 17, 2011, I sent to the FBI the FOIA request attached hereto as Exhibit A. On March 24, 2011, I received from David M. Hardy the FOIA response attached hereto as Exhibit B, together with the 190 pages of documents referenced therein.

On April 4, 2011, I sent to Mr. Hardy the letter attached hereto as Exhibit C, asking certain questions about the FOIA response I had received. To date, I have received no reply from Mr. Hardy answering any of these questions.

I have obtained a number of other FBI documents relating to the subject matter of my FOIA request which are not included within the 190 pages of documents provided to me with the above-referenced FOIA response. A sampling of those non-produced documents are attached hereto as Exhibit D. Accordingly, I can only conclude that the search for documents responsive to my FOIA request was inadequate.

In addition, based upon my review of the redactions to the documents which have been produced, it appears that the b6 and b7(C) exemptions have been applied far too broadly, especially given that the general subject matter of the documents has been a subject of public court proceedings for most of the past 17 years.

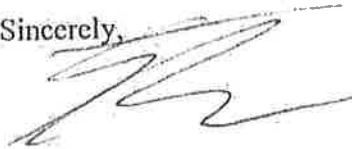
Finally, I do think that I am entitled to answers to the questions I posed to Mr. Hardy in my April 4 letter, in order to meaningfully exercise my FOIA rights.

For all of the foregoing reasons, I ask you to review this file on appeal and direct whatever further actions need to be undertaken to ensure the FBI's full and complete compliance with its obligations under the law in response to this FOIA request.

ROPES & GRAY LLP

Thank you in advance for your time and attention to this appeal. If you have any questions at all concerning it, please do not hesitate to contact me at 202-508-4655 or Stephen.braga@ropesgray.com.

Sincerely,

A handwritten signature in black ink, appearing to be 'SLB', written over a horizontal line.

Stephen L. Braga

EXHIBIT A

FBI eFOIA Request Form

Instructions:

- 1) Please use this form only to request information about an organization, a business, an investigation, a historical event, an incident, or a group. This form should not be used to submit Privacy Act requests for information about yourself or another living person.
- 2) Required fields are marked. If you do not enter accurate and complete information, we may not be able to process your request.
- 3) After filling out the information, submit your request electronically by clicking the SUBMIT button at the bottom of the page. Please note: This is not a secure form, and we cannot guarantee the confidentiality of communications sent via the Internet.
- 4) You also have the option of typing your information into this form, printing it, and: (1) faxing it to (540) 868-4995/4996/4997; or (2) mailing it to **FBI, FOI/PA Request, Record/Information Dissemination Section, 170 Marcel Drive, Winchester, VA 22602-4843**. You can also e-mail the information to foiparequest@ic.fbi.gov.
- 5) For more information on how to prepare and submit your request, please call the FOIA Requestor Service Center at (540) 868-1535 or see the Requesting FBI Records webpage: http://foia.fbi.gov/requesting_records.html

Dear FOIA Officer:

This is a request filed under the Freedom of Information Act.

Reasonably Describe the Records

Describe the records you are requesting. Be as specific as possible with regard to names, dates, places, events, subjects, etc. Please include any known file designations or descriptions for the records you seek.

Bear in mind that the FBI was not established until 1908 and has very few records prior to the 1920s. The Freedom of Information Act clearly states that records must exist at the time the request is submitted to be considered.

Enter description: You must submit a separate request for each subject: (Required)
Describe Subject/Incident of Request. Give Time Frame (if applicable).

I request copies of all records relating to the FBI's involvement with the West Memphis Police Department in West Memphis, Arkansas in an investigation into the murders of three young boys named Steven Branch, Michael Moore and Christopher Byers on May 5, 1993. The FBI was contacted about the murders by teletype dated May 7, 1993 and that the FBI's Universal File Case Number for this matter was 252B-LR-34807. The requested records include any FBI interactions with any other law enforcement or forensic agencies such as the Arkansas State Police and the Arkansas State Crime Laboratory concerning this investigation. The requested records include any FBI interactions with any law enforcement or forensic agencies, or prosecutor's office, with respect to either (1) the prosecution of Damien Echols, Jason Baldwin and/or Jessie Misskelley for these murders, or (2) any post-conviction legal proceedings involving Echols, Baldwin or Misskelley. Finally, the requested records include (1) the nature and results of any scientific tests conducted by the FBI on any forensic evidence, (2) identification of any forensic evidence that remains in the FBI's possession today, and (3) transmittal letters received from or sent to the WMPD and/or any other law enforcement or forensic agencies with the transmission of any evidence relating to this investigation and/or prosecution.

Thank you for your consideration of my request.

Sincerely,

Title: (Mr. Mrs. Miss, etc.) Mr.

Name: (Required) Stephen L. Braga

Organization: (Required if applicable)

Ropes & Gray LLP

Street Address: (Required)

700 12th Street, NW, Suite 900

City: (Required) Washington

State: (Required if applicable) DC

Or Country: (Required if applicable) USA

ZIP or Postal Code: (Required) 20005

Phone #1: 202-508-4655

Phone #2: 617-304-7124

Fax Number: 202-383-9821

E-mail address: stephen.braga@ropesgray.com

Secondary address:

n/a

Submit

Print Page

Clear Information

Type of Requestor

Please provide information about yourself and the purpose of your request to help us determine your fee category: (Required)

I am an attorney representing Damien Echols in post-conviction litigation in the Arkansas State Courts. The requested information is pertinent to certain issues to be addressed by the Arkansas Circuit Court at an evidentiary hearing later this year on Mr. Echols' motion for a new trial based on newly discovered evidence.

Fees and Fee Waivers

Your request must include a statement that:

- (1) You agree to pay any fees that may be incurred to process the request;
- (2) Stipulates an amount you are willing to pay; or
- (3) Requests a specific waiver or reduction of fees.

Please select the statement that applies: (Required)

I agree to pay all applicable fees. ☒

I agree to pay up to a specific amount for fees. ☐ (Enter dollar amount)

I request a waiver or reduction of fees. ☐

Explanation for request of waiver or reduction of fees:

Expedited Processing

If you are seeking expedited processing, please choose one of the options below and provide a justification.

I believe a compelling need exists to warrant expedited processing because there is an imminent threat to the life or physical safety of an individual. ☐

I believe a compelling need exists to warrant expedited processing because there is an urgency to inform the public concerning actual or alleged federal government activity (Note: This option is available ONLY for requestors primarily engaged in disseminating information). ☐

Please provide your specific justification for expedited processing:

EXHIBIT B



U.S. Department of Justice

Federal Bureau of Investigation
Washington, D.C. 20535

March 24, 2011

MR. STEPHEN L. BRAGA
SUITE 900
700 12TH STREET, NW
WASHINGTON, DC 20005

FOIPA Request No.: 1163053- 000
Subject: FILE NUMBER 252B-LR-34807
AND RELATED INVESTIGATION

Dear Mr. Braga:

The records that you have requested were previously processed under the provisions of the Freedom of Information Act for another requester. If you would like the documents to be reprocessed under the new Attorney General guidelines, please submit a new FOIA request.

Enclosed are 190 pages of documents pertaining to your request and a copy of the explanation of exemptions.

You may file an appeal by writing to the Director, Office of Information Policy (OIP), U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Request Number assigned to your request so that it may be identified easily.

Very truly yours,

A handwritten signature in dark ink, appearing to read "D. Hardy", is written over a horizontal line.

David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Records Management Division

Enclosure(s)

EXHIBIT C



ROPES & GRAY LLP
ONE METRO CENTER
700 12TH STREET, NW, SUITE 900
WASHINGTON, DC 20005-3948
WWW.ROPESGRAY.COM

April 4, 2011

David M. Hardy
Section Chief
Record/Information Dissemination Section
Records Management Division
Federal Bureau of Investigation
170 Marcel Drive
Winchester, VA 22602

RE: FOIPA Request No. 1163053-000

Dear Mr. Hardy:

Thank you for your letter responding to my above-referenced FOIA request. I have a couple of questions concerning the documents you sent me. I am hoping that you can answer these questions promptly so that I can meaningfully determine whether I need to appeal.

One of the documents illustrates a VHS tape of the "Crime Scene Video." Is there a way for me to get a copy of that tape made, at my expense of course?

Another document refers to "3 large maps of crime scene" which were "too large to scan." Is there a way for me to get copies of those large maps made, again at my expense?

Other than the foregoing tape and maps, the only reference to any documents being withheld in their entirety – as opposed to documents being provided with redactions - are "the medical examiner reports on the 3 boys." Am I right that no other documents have been withheld in their entirety?

The documents produced contain no references to any forensic testing of evidence done by the FBI. Was no such forensic testing done, or would it have been done in a unit of the Bureau covered by a different FOIA system, so that I would need to send a new request there?

Thank you for your assistance.

Sincerely,

Stephen L. Braga

A handwritten signature in black ink, appearing to be "SLB", written over the typed name Stephen L. Braga.

EXHIBIT D

FD-340 (Rev. 8-18-89)

Universal File Case Number 252B-LR-34807-1A1

Field Office Acquiring Evidence _____

Serial # of Originating Document _____

Date Received 5/24/93

From FBI
(Name of Contributor)

(Address of Contributor)
Washington, D.C.
(City and State)

By _____ b7C
(Name of Special Agent)

To Be Returned ☐ Yes ☒ No

Receipt Given ☐ Yes ☒ No

Grand Jury Material - Disseminate Only Pursuant to Rule 6 (e)

Federal Rules of Criminal Procedure

☐ Yes ☒ No

Title: Unsub;
Steven Edward Branch - victim (deceased);
Christopher Mark Byers - victim (deceased);
James Michael Moore - victim (deceased);
NCAC - Criminal Investigative Analysis

Reference: _____
(Communication Enclosing Material)

Description: ☐ Original notes re interview of

2 sets of negatives
72 photos sent to West Memphis Police Dept.
72 photos forwarded to Behavioral Science Unit
5/24/93 R.H.S.



CITY OF WEST MEMPHIS

POLICE DEPARTMENT

100 Court Street - West Memphis, Arkansas 72301 - (501) 735-1210

Bruce Hall
Federal Bureau of Investigation
Washington, D.C. 20535

June 23, 1993

Dear Mr. Hall,

Per our conversation in regards to soil samples of crime scene in West Memphis, Arkansas.

Lisa Sakevicius, Trace Division, Arkansas Crime Lab, remarked that she had soil samples from boots belonging to a suspect which has been arrested in our triple homicide case. She suggested that we take known soil samples and send them to the FBI Lab for analysis.

I understand she has called and talked to you in regards to this and this letter along with a summary of the case is being forward to you along with the questioned sample and the known crime scene samples.

Also photos of the area where the samples were taken will be included along with a drawing (not to scale) of the area. Hope this is sufficient to assist you in your examination of the samples.

Your assistance in this case would be greatly appreciated.

A handwritten signature in dark ink, appearing to read "Gary V. Gitchell", is written over the typed name.

Gary V. Gitchell, Inspector
NA189th Session

JUL 8 1993

284

FD-340 (Rev. 8-18-89)

Universal File Case Number 152B-LR-134807-1A3

Field Office Acquiring Evidence _____

Serial # of Originating Document _____

Date Received 7/2/93From FBI

(Name of Contributor)

(Address of Contributor)

Atlanta, Georgia

(City and State)

By _____

(Name of Special Agent)

To Be Returned ☐ Yes ☒ No

b7C

Receipt Given ☐ Yes ☒ No

Grand Jury Material - Disseminate Only Pursuant to Rule 6 (e)

Federal Rules of Criminal Procedure

☐ Yes ☒ NoTitle: Michael Wayne Echols,ET AL;West Memphis, AR Police Department;May 6, 1993;NCACV - Criminal Investigative Analysis

Reference: _____

(Communication Enclosing Material)

Description: ☐ Original notes re interview of2 sets of 60 crime scene
photographs

7-1 (Rev. 2-21-91)



FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

DIS

To: Mr. Gary W. Gitchell
Inspector
West Memphis Police Department
100 Court Street
West Memphis, Arkansas 72301

Date: July 9, 1993

FBI File No. 252B-LR-34807

Lab No. 30701048 S ZG

Reference: Communication dated June 23, 1993

Your No.

Re: JESSIE MISSKELLEY AND OTHERS - SUSPECTS;
MICHAEL MOORE AND OTHERS - VICTIMS;
HOMICIDE/SEX/VICAP

WEST MEMPHIS POLICE
confidential
COPY TO PROSECUTOR
JULY 16 1993

Specimens received: July 1, 1993

The FBI Laboratory has received the evidence which you sent for examination. The examinations will take about 12 weeks to complete as Laboratory resources and priorities permit. Please call us at (202) 324-4341 if any changes occur in the status of this case, such as court deadlines, dismissal of charges, guilty pleas, or other special circumstances.

JUL 19 1993

7.1 (Rev. 2-21-91)



**FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535**

6661 B 130
DIS

OCT. 8 1993

To: Mr. Gary W. Gitchell
Inspector
West Memphis Police Department
100 Court Street
West Memphis, Arkansas 72301

Date: September 27, 1993

FBI File No. 252B-LR-34807

Lab No. 30701048 S ZG

Reference: Communication dated June 23, 1993

Your No.

Re: JESSIE MISSKELLEY, JR. AND OTHERS - SUSPECTS;
MICHAEL MOORE AND OTHERS - VICTIMS;
HOMICIDE

Specimens received: July 1, 1993

Specimens:

Q1 Soil from within creek bed
Q2 Soil from west bank of creek
Q3 Soil from east bank of creek
Q4 Soil from trail west of crime scene
K1 Soil from boots

ALSO SUBMITTED:

Photos

Page 1

(over)

DLS

Result of examination:

The soil recovered from the suspect's boots, specimen K1, can not be associated with soil collected from the crime scene as represented by specimens Q1 through Q4.

All specimens will be returned to your department under separate cover.